

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Examine the  
Commission's Future Energy Efficiency Policies,  
Administration and Programs

Rulemaking 01-08-028  
(Filed August 23, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING REGARDING  
NOTICES OF INTENT TO CLAIM COMPENSATION**

**1. Summary**

This ruling responds to the notice of intent (NOI) to claim compensation filed in this docket by Greenaction for Health and Environmental Justice (Greenaction),<sup>1</sup> and pursuant to Public Utilities Code, Article 5, Section 1804. Greenaction must ultimately demonstrate that its participation resulted in a substantial contribution to the proceeding by the unique presentation of facts or arguments that were relied upon by the California Public Utilities Commission (Commission) in resolving this proceeding.

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<sup>1</sup> Greenaction for Health and Environmental Justice represents Caroline Washington, Sharon Green-Peace, Keith Tisdale of Mariners Village private housing in Bayview Hunters Point; Ms. Tessie Ester, Lottie Titus, Yolanda James, and Sabrina Warren of Huntersview Tenants Association; Willie and Mary Ratcliff, residents and small business owners in Bayview Hunters Point; Network for Elders, a community organization representing over 300 elderly residents in Bayview Hunters Point; Helen Jackson representing over 190 residents in Bayview subsidized housing; and other members of the Bayview Hunters Point community.

## **2. Statutory Requirements Relevant to Greenaction's NOI**

Under § 1804(a)(1), “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.” It also permits the Commission to accept a late filing where a party could not have reasonably identified issues within 30 days of the prehearing conference (PHC).

The Commission last held a PHC in this proceeding on September 10, 2001. Since that PHC, the proceeding and the Commission's policies have evolved and the Assigned Commissioner has announced her intent to review various policy and program issues in a ruling dated July 3, 2003. In addition, Greenaction states it did not become aware of this proceeding until the City of San Francisco's Department of the Environment conducted a community meeting on proposed energy savings programs in the second quarter of 2003. Because the Commission wishes to encourage participation by representatives of diverse communities of interest and considering the ongoing and evolving nature of this proceeding, Greenaction should be permitted to file its NOI late. In addition, it is reasonable to assume that Greenaction and its constituents may not have known about the proceeding until recently. For all of the foregoing reasons, the Commission accepts Greenaction's NOI late for filing.

Section 1804(a)(2) sets forth those items that must be addressed in an NOI. Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), and identify whether the intervenor is a participant representing consumers, or a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. If the customer category identified is “a representative

authorized by a customer,” the NOI should identify “the residential customer or customers that authorized him to represent that customer.” That identification is needed because this category of customer “connotes a more formal arrangement where a customer, or a group of customers, selects a presumably more skilled person to represent the customers’ views in a proceeding.” (D.98-04-059, pp. 28-30.) Participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation.

Once the applicable definition of customer is identified, the correct standard of “significant financial hardship” can be applied. Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation. Section 1802(g) defines “significant financial hardship.”

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.

### **3. Greenaction’s NOI**

Greenaction is a nonprofit organization operating as a project of the Tides Center, a charitable organization. Greenaction states various named individuals and associations in San Francisco have authorized it to represent

their interests in this proceeding. Accordingly, Greenaction is a “participant representing consumers, customers or subscribers” of jurisdictional utilities, consistent with § 1802(b).

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer’s planned participation in the proceeding to the extent this can be predicted. Greenaction states it expects to be an active party in this proceeding and will provide the Commission with information on the impact of various policies and proposals on the low-income residents and small businesses in San Francisco’s Bayview Hunters Point neighborhood.<sup>2</sup>

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. Greenaction estimates a total projected budget of \$6,300 for this case, based on proposed hourly rates for its community organizer, executive director and community health advocate at hourly rates of \$60, \$75 and \$60, respectively.

Greenaction states the people it represents are mostly on fixed incomes, public assistance, or are unemployed. It states it represents nine individual customers and two community-based organizations, one representing 300 elderly residents and one representing 190 residents living in subsidized housing. Because the incomes of Greenaction’s constituents are low, they could not afford representation in a Commission meeting without Greenaction and

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<sup>2</sup> Greenaction’s NOI mentions its interest in the impact of bankruptcy settlement issues on local residents. We presume this is a typographical error. In this proceeding, Greenaction may become eligible for compensation only to the extent it addresses energy efficiency issues within the articulated scope of the proceeding.

intervenor compensation. Greenaction did not provide financial statements for its constituents. Assuming, as Greenaction states, they are low-income customers, they would not have the resources to represent themselves or to hire someone to represent them in this proceeding. Their individual interests are surely small compared to the potential cost of participating in the proceeding. This ruling therefore finds that participation in this proceeding by Greenaction and its constituent customers would create financial hardship. The Commission, however, retains its authority to request more detailed financial information before granting intervenor compensation, should Greenaction ultimately seek such compensation.

**IT IS RULED** that Greenaction for Health and Environmental Justice (Greenaction) is a customer as that term is defined in § 1802(b) of the Pub. Util. Code. Greenaction has otherwise met the eligibility requirements of § 1802.

If Greenaction ultimately files for intervenor compensation in this proceeding, the California Public Utilities Commission may require Greenaction to provide evidence of its constituents' income levels.

Dated October 9, 2003, at San Francisco, California.

/s/ KIM MALCOLM  
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Kim Malcolm  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Notices of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated October 9, 2003, at San Francisco, California.

/s/ HELEN FRIEDMAN

Helen Friedman

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.